

STATE OF IOWA - DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

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Attorney General

1 9 7 9 A N N U A L S T A T I S T I C S A N D R E P O R T
- C O N S U M E R P R O T E C T I O N D I V I S I O N -

64965

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DES MOINES, IOWA 50319
515/281-5926

A MESSAGE FROM THE ATTORNEY GENERAL

February 1, 1980

This report lists in detail, information and statistics about the activities of the Consumer Protection Division of my office during the calendar year of 1979. As you can see from examining this report, 1979 was the busiest year ever for the Consumer Protection Division.

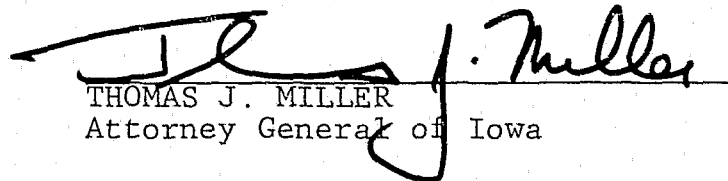
During 1979, the activities of the Division were directed by Assistant Attorney General in Charge Douglas R. Carlson. The Division operates with a total of 18 full-time staff members and various part-time volunteer and intern complaint handlers.

The Iowa Consumer Fraud Act, Section 714.16, Code of Iowa 1979, was passed by the Iowa Legislature in 1965 and is enforced by my office for the protection of all Iowans. In addition, Iowans are protected by several other state consumer statutes that will be discussed briefly in this report.

Iowans who have problems, complaints or inquiries in the consumer protection area should direct them to:

Consumer Protection Division
Hoover State Office Building
Des Moines, Iowa 50319
Phone: 515/281-5926

If the members of my Consumer Protection Division staff cannot directly assist you with your problem, they will be happy to try and refer you to the proper place to obtain the assistance you may need.


THOMAS J. MILLER
Attorney General of Iowa

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FEB 19 1980

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INTRODUCTION

Nineteen seventy-nine was the busiest year ever for the Attorney General's Consumer Protection Division. In many major areas, the Division set new records for yearly activities.

The Division received 9,303 new written consumer complaints, a new record, up from the previous record of 8,728 in 1978.

The Division was able to complete action on 10,967 complaints, also a new record, up from the old record of 8,521 in 1978.

One of the more important figures is that for the first time in ten years the Division was able to achieve a significant reduction in the number of complaints pending at the end of the year. The Division began the year with 5,575 pending complaints and was able to reduce the complaint backlog to 3,911 at the end of the year. This will result in better action not only on pending complaints but on new complaints received in 1980.

The Division started 1979 with 5,575 pending complaints, which coupled with the 9,303 new complaints received during the year, resulted in the handling of a total of 14,878 complaints.

Nineteen seventy-nine was also a major year for Division litigation. The Division filed 22 new lawsuits, the largest number filed in four years. The Division was also able to close 37 lawsuits, the largest number of suits ever completed in any one year.

The Division ended the year with 36 lawsuits pending in court and during the year engaged in a total of 73 consumer protection lawsuits. The Division's attorneys also handled fifteen Attorney General opinions during the year.

Many of the 10,967 complaints the Division completed in 1979 involved financial savings to the complainants. For the year, about 31 percent of the complaints closed by the Division involved some cash restitution or monetary savings. The total amount of monies recovered or saved for Iowans by the Division was \$1,278,781.04. This was second only to the 1974 figure of \$1,482,521.15.

Of course, all of the above figures, while important, are in fact simply statistics. Probably the most important thing to remember is that behind each complaints is a consumer with a problem that to him or her is very important. There is much more at stake in the handling of consumer complaints than simply the number of complaints or the dollar figures involved.

Victimized consumers tend to retrench on their purchases and often begin to believe that all businessmen are crooks, which of course is not the case. Iowa enjoys a fairly enviable position among the various states since it is not a state that harbors a large number of major crooked companies. A large majority of the true fraudulent companies that victimize Iowans are out-of-state companies rather than local merchants. This results in a situation that for every dollar that an Iowan is victimized out of by a fraudulent scheme, the actual loss can

be counted as \$2. Not only has the Iowan lost his or her dollar, but local, legitimate Iowa merchants have lost a dollars' worth of business since the victim will not have the money to spend for items that may be really needed or desired.

Thus, the true concept of consumer protection is not a concept where complaints of consumers are pitted against the businesses of the honest merchants of the state. The true result of a viable consumer protection effort is not only the protection of consumers from being victimized but also the protection of the honest businessman from unfair competition.

One very important figure contained in the 1979 handling statistics is that the office was, in fact, able to assist 64.5 percent of complainants in cases completed during the year. This figure is almost the same as the 1979 figure when the Division was able to assist 65.6 percent. However, the Division was able to maintain such a high success ratio in 1979 even though it completed action on 2,446 more complaints than it completed action on in 1978.

Readers with any additional specific questions about areas not covered in this report are welcome to contact the Division for any further information desired.

CONSUMER RIGHTS

One of the goals of the Consumer Protection Division of the Attorney General's Office is to enforce and protect the "consumer's rights." Although these rights are not contained in any written statute or drafted constitution, they are nonetheless real and viable. The consumer basically has the following five specific rights:

1. The consumer has the right to be able to make an intelligent choice among products and services.
2. The consumer has the right to accurate information on which to make his choice.
3. The consumer has the right to expect that his health and safety are taken into account by those who seek his patronage.
4. The consumer has the right to have his complaint heard, weighed and acted upon.
5. The consumer has the right to be able to believe and rely upon what is told him about a product being sold or advertised.

If the consumer believes that any of these rights have been violated, he should call this to the attention of the Consumer Protection Division.

1979 GENERAL STATISTICS

New Complaints Received.....	9,303
Complaints Closed.....	10,967
Complaints Pending at End of Year.....	3,911
Complaints Worked on During Year.....	14,878
Lawsuits Filed.....	22
Lawsuits Closed.....	37
Lawsuits Pending at End of Year.....	36
Lawsuits Engaged in During Year.....	73
Attorney General Opinions.....	15
Monies Saved and Recovered.....	\$1,278,781.04

TOP TEN COMPLAINT CATEGORIES

1979

	<u># OF COMPLAINTS</u>	<u>CATEGORY</u>	<u>PERCENT</u>
1.	1758	Automobiles	18.9%
2.	1021	Mail Order Companies	11.0%
3.	525	Consumer Credit Code	5.6%
4.	405	Magazine Sales & Services	4.4%
5.	385	Funeral Homes & Cemeteries	4.1%
6.	367	Advertising	4.0%
7.	356	Home Improvements	3.8%
8.	309	Business Opportunities	3.3%
9.	271	Health Spas	2.9%
10.	190	Real Estate (Rentals)	2.0%

1978

	<u># OF COMPLAINTS</u>	<u>CATEGORY</u>	<u>PERCENT</u>
1.	1550	Automobiles	17.5%
2.	845	Mail Order Companies	9.6%
3.	783	Agricultural Equipment & Supplies	9.0%
4.	534	Consumer Credit Code	6.1%
5.	408	Home Improvements	4.6%
6.	392	Advertising	4.5%
7.	356	Business Opportunity Schemes	4.0%
8.	298	Magazine Sales and Services	3.4%
9.	267	Real Estate (Rentals)	3.0%
10.	187	Appliances	2.1%

1977

	<u># OF COMPLAINTS</u>	<u>CATEGORY</u>	<u>PERCENT</u>
1.	1269	Automobiles	19.6%
2.	731	Mail Order Companies	11.3%
3.	499	Advertising	7.7%
4.	437	Consumer Credit Code	6.7%
5.	232	Business Opportunity Schemes	3.6%
6.	231	Home Improvements	3.5%
7.	167	Magazine Subscriptions	2.6%
8.	166	Insurance	2.5%
9.	153	Appliances	2.3%
10.	149	Land Sales (Subdivided Out-of-State)	2.3%

1979 HANDLING STATISTICS

THIS OFFICE ASSISTED THE COMPLAINANT - 64.5%

Directly Assisted Complainant - 31%

Saved or Recovered Money or Merchandise	2601
Merchandise Delivered	451
Merchandise Repaired or Replaced	<u>361</u>
TOTAL	3413

Indirectly Assisted Complainant - 22%

Provided Information Requested	1544
Assisted in Filing Bankruptcy Claim	472
Enjoined Complained Of Practice	274
Stopped Complained Of Practice	<u>148</u>
TOTAL	2438

Assisted by Referral - 11.5%

Referred to Other Iowa State Agency	477
Referred to Private Attorney	402
Referred to Other State Attorney General	143
Referred to Federal Agency Other Than Post Office or Federal Trade Commission	84
Referred to Postal Authorities	79
Referred to Federal Trade Commission	52
Referred to County or City Attorney	<u>21</u>
TOTAL	1258

TAKEN CARE OF BY ACTION OF COMPLAINANT - 19.3%

No Reply or Response From Complainant	1733
Complainant Settled Privately	253
Complainant Withdrew Complaint	<u>130</u>
TOTAL	2116

COULD NOT ATTEMPT TO ASSIST - 9.3%

No Jurisdiction	518
No Basis	<u>505</u>
TOTAL	1023

UNABLE TO ASSIST - 6.6%

Insufficient Evidence	355
Respondent Out of Business	244
Unable to Locate Respondent	<u>120</u>
TOTAL	719

TOTAL COMPLAINTS CLOSED 10,967

1979 DISPOSITION OF CLOSED COMPLAINTS

	<u># OF</u> <u>COMPLAINTS</u>	<u>DISPOSITION</u>	<u>PERCENT</u>
1.	2601	Money Saved or Recovered/Merchandise Delivered	23.7%
2.	1733	No Reply From Complainant	15.8%
3.	1544	Information Requested Furnished	14.1%
4.	518	No Jurisdiction	4.7%
5.	505	No Basis	4.6%
6.	477	Referred to Other Iowa State Agency	4.3%
7.	472	Assisted in Filing Bankruptcy Claim	4.3%
8.	451	Merchandise Delivered	4.1%
9.	402	Referred to Private Attorney	3.7%
10.	361	Merchandise Repaired or Replaced	3.3%
11.	355	Insufficient Evidence	3.2%
12.	274	Injunction Issued	2.5%
13.	253	Private Agreement of Parties	2.3%
14.	244	Respondent Out of Business	2.2%
15.	148	Complained of Practice Discontinued	1.3%
16.	143	Referred to Other State Attorney General	1.3%
17.	130	Withdrawn by Complainant	1.2%
18.	120	Unable to Locate Respondent	1.1%
19.	84	Referred to Federal Agency Other Than Post Office or Federal Trade Commission	less than 1%
20.	79	Referred to Postal Authorities	less than 1%
21.	52	Referred to Federal Trade Commission	less than 1%
22.	21	Referred to County or City Attorney	less than 1%

TOTAL COMPLAINTS CLOSED - 10,967

1979 OPENINGS BY CATEGORY

	<u># OF</u> <u>COMPLAINTS</u>	<u>CATEGORY</u>	<u>PERCENT</u>
1.	1758	Automobiles (Includes Trucks)	18.9%
2.	1021	Mail Order Companies	11.0%
3.	525	Consumer Credit Code	5.6%
4.	405	Magazines (Sales & Services)	4.4%
5.	385	Funeral Homes & Cemeteries	4.1%
6.	367	Advertising	3.9%
7.	356	Home Improvements	3.8%
8.	309	Business Opportunity Schemes	3.3%
9.	271	Health Spas & Weight Salons	2.9%
10.	255	Miscellaneous	2.7%
11.	190	Real Estate (Rentals)	2.0%
12.	169	Appliances	1.8%
13.	145	Furniture	1.6%
14.	140	Agricultural Equipment & Supplies	1.5%
15.	135	Services (General)	1.5%
16.	129	Book, Record & Tape Clubs	1.4%
17.	116	Insurance	1.2%
18.	114	Travel & Transportation	1.2%
19.	111	Invoice & Billing Schemes (Noncredit)	1.2%
20.	105	Service Stations & Garages (Other Than Auto Repair)	1.1%
21.	100	Health Services (Doctors, Dentists, Hospitals, Etc.)	1.1%
22.	99	Heating & Air Conditioning	1.1%
23.	94	Mobile Homes & Campers (Sales & Services)	less than 1%

	<u># OF</u> <u>COMPLAINTS</u>	<u>CATEGORY</u>	<u>PERCENT</u>
24.	93	Television & Radios	less than 1%
25.	92	Securities & Investments (Other Than Stocks & Bonds)	less than 1%
26.	89	Trade & Correspondence Schools	less than 1%
27.	76	Sundries	less than 1%
28.	75	Contests	less than 1%
29.	75	Failure to Furnish Merchandise (Other Than Mail Order)	less than 1%
30.	73	Real Estate (Houses)	less than 1%
31.	72	Photo Equipment & Services	less than 1%
32.	71	Land Sales (Out-of-State)	less than 1%
33.	69	Services (Professional)	less than 1%
34.	68	Home Building	less than 1%
35.	68	Utilities	less than 1%
36.	61	Warranty Problems	less than 1%
37.	57	Home Repair Schemes (Lightning Rods, Roof Repairs, Septic Tanks)	less than 1%
38.	55	Interest Rates & Lending Companies (Other Than Credit Code)	less than 1%
39.	53	Clothing	less than 1%
40.	50	Fund Raising (Charities, etc.)	less than 1%
41.	48	Government Agencies	less than 1%
42.	46	Construction (Other Than Houses)	less than 1%
43.	43	Office Equipment & Supplies	less than 1%
44.	41	Stereos & Record Players	less than 1%
45.	39	Moving & Storage	less than 1%
46.	37	Energy Saving Devices	less than 1%
47.	37	Franchise Sales	less than 1%

	<u># OF</u> <u>COMPLAINTS</u>	<u>CATEGORY</u>	<u>PERCENT</u>
48.	34	Insulation	less than 1%
49.	32	Kitchenware	less than 1%
50.	32	Water Softeners and Conditioners, Etc.	less than 1%
51.	30	Loan Finders	less than 1%
52.	30	Nurseries, Gardening Eqpt., Etc	less than 1%
53.	28	Food Products	less than 1%
54.	27	Aluminum Siding	less than 1%
55.	24	Real Estate (Other Than Houses)	less than 1%
56.	24	Pets	less than 1%
57.	23	Mobile Home Parks	less than 1%
58.	23	Motorcycles & Bicycles	less than 1%
59.	21	Floor Coverings (Carpet, Etc.)	less than 1%
60.	21	Discount Buying Clubs	less than 1%
61.	20	Door-To-Door Sales Act Violations	less than 1%
62.	16	Stocks & Bonds	less than 1%
63.	15	Land Sales (Iowa)	less than 1%
64.	15	Sewing Machines	less than 1%
65.	15	Sporting Goods	less than 1%
66.	13	Musical Instruments, Lessons, Etc.	less than 1%
67.	13	Pest Control	less than 1%
68.	11	Boats, Boating Eqpt., Repairs Etc.	less than 1%
69.	11	Hearing Aids	less than 1%
70.	7	Encyclopedias	less than 1%
71.	7	Fire, Heat & Smoke Alarm Sales	less than 1%
72.	7	Multilevel & Pyramid Distributorships	less than 1%

	<u># OF</u> <u>COMPLAINTS</u>	<u>CATEGORY</u>	<u>PERCENT</u>
73.	7	Toys	less than 1%
74.	5	Vending Machines	less than 1%
75.	4	Referral Selling	less than 1%
76.	1	Land Resale Companies	less than 1%

AUTOMOBILE COMPLAINTS

Consumer complaints about automobile problems have led the categories that Iowa consumers have complained about for the last four years. From 1976 through 1979, Iowa consumer automobile complaints have increased as follows:

1. 1976 - 539 complaints
2. 1977 - 1,269 complaints
3. 1978 - 1,550 complaints
4. 1979 - 1,758 complaints

The recent increase in the receipt of automobile complaints by the Consumer Protection Division has been staggering. Car complaints are without question the fastest rising category that consumers complain about in Iowa. Exchanges of information with other state Consumer Protection Divisions and various federal agencies also shows an almost nationwide pattern that consumers now complain more about automobiles than any other consumer problem.

Automobile complaints received by the Division are categorized into six different subcategories:

1. General Complaints 106
2. Odometer Roll Back Complaints - 12
3. Complaints About New Car Sales Practices - 747
4. Complaints About Repair & Services Problems - 603
5. Complaints About Used Car Sales Practices - 174
6. Complaints About Warranty Problems - 116

Consumer complaints alleging deceptive sales practices by new car dealers led the list at 747. However, the problem

is really not quite as bad as it seems in this subcategory. About 500 of these complaints on deceptive new car sales practices are attributable to the last of the General Motors engine switch complaints. This litigation was based on the switching of Chevrolet engines into 1977 Oldsmobiles, Buicks and Pontiacs without disclosing this to the customer.

The next leading subcategory of automobile problems are complaints about repair and services problems, 603. This has been recognized to be a complaint area of serious national import. In May of 1979, the U.S. Department of Transportation released the results of an undercover survey that found that 53 percent of every dollar that consumers spend on automobile repairs is money wasted. However, the Consumer Protection Division does not believe that this figure would be anywhere near this high in the State of Iowa. Iowa was not one of the market areas in the Department of Transportation's undercover investigation. Although the Iowa situation is certainly much better than the national picture, there is still much to be desired by the consumer when it comes to being treated fairly and charged properly in regard to auto repairs.

On the federal level, this area of major consumer concern has recently been recognized and the U.S. Department of Transportation is now leading an effort to address auto repair problems. Some consideration has been given to the establishment of either federal or state auto repair statutes and some of the larger states already have statutes licensing, regulating and bonding automobile repair facilities. To date, the Iowa Consumer Protection Division has not gone so far as to recommend such

restrictive legislation. However, the investigation of auto repair complaints on a statewide basis is beyond the capacity of the Division as we have no district offices, no mechanics on the staff and do not have the budget to conduct the in-depth undercover investigations necessary to truly detect deceptive automobile repair operations.

When a consumer complains about an automobile problem, it is generally not something that he can wait to have solved. He must have immediate action on it because he often needs to have his car on a daily basis. The Division has thus recognized its serious limitations in addressing automobile problems from all over the State of Iowa with offices and staff located only in Des Moines. Recognizing these limitations, the Division during 1979 has participated in a number of programs to obtain better auto complaint mediation and settlement activities for complaining consumers and will step up these efforts in 1980.

During the last half of 1979, the Division participated with the Better Business Bureau of Greater Des Moines in their "Autoline" project. Funded by the Council of Better Business Bureaus, Inc., the Des Moines area was chosen as a pilot city for the establishment of the first major program to try and involve all local dealers and all manufacturers in an automobile complaint resolution program. All major manufacturers and all Polk County area new car dealers are participating in the Autoline program and are committed to mediation efforts and arbitration proceedings. These efforts are handled by three full-time staff members at the Des Moines Better Business Bureau.

The Division has been referring its "non-fraud" automobile complaints to Autoline and notes that the project has met with much success. The reduction in the handling of non-fraud automobile complaints against Polk County area new car dealers has given the Division more time to work on fraud-related car complaints and investigations and to handle car complaints received from other parts of the state.

Another cooperative effort was started in late 1979 in connection with the Iowa Automobile Dealer's Association. The IADA has recently initiated a "Customer and Dealer Relations Service" emphasizing a "Key Man" approach. Each dealer will designate a specific individual with full authority to handle car sales and repair complaints. This information will be available to the Consumer Protection Division and be made available to the public. Thus, when handling a complaint against a dealer, we will have a specific person to deal with who will be in charge of coordinating all consumer complaints for that dealership.

Complaints about new car sales practices involved allegations of bait-and-switch advertising, failure to disclose so-called new cars which are, in fact, lease cars, demos or executive cars, the deceptive use of certain words in advertising such as "dealer cost" and various other problem practices. The Division engages in a continuing effort to monitor new car sales advertisements and often contacts car dealers whose ads appear to be deceptive. Often we have been able to induce new car dealers to voluntarily change complained of advertising practices.

One of the more frustrating areas of automobile complaints is the 174 complaints we received about deceptive used car sales practices. Of course, the classical situation is the consumer who buys a used car thinking it will be a good car for him to get back and forth to work in. When the car turns out to be a lemon and everything starts to go wrong as soon as it is driven around the block, the consumer, of course, believes that he has been ripped off.

There are a number of major problems in investigating used car sales problems and practices. First of all, most used cars in Iowa are sold on an "as is" basis and often are not accompanied by any kind of warranty or guarantee. The Division takes the position that if a used car dealer sells an automobile with a known defect and fails to disclose that defect to the buyer, the dealer has violated the Iowa Consumer Fraud Act by "failing to disclose a material fact." Unfortunately, it is very hard to prove such knowledge.

Advising the consumer as to how he can protect himself in connection with used car purchases is a very difficult area. The best recommendation is to deal with a reputable used car dealer who is willing to stand behind his cars and who offers some kind of a repair warranty or guarantee agreement. Purchasing from dealers who have no such agreement and sell only on an "as is" basis is strictly a gamble where the consumer is often on his own in regard to paying for any needed repairs.

One area of major auto fraud in the past was the area of "odometer rollbacks." Through the middle and late 60's and early 70's, this was a major problem in Iowa but with the

implementation of both federal and state criminal statutes prohibiting such practices, complaints in this area fell to only twelve received by the Division in 1979. The Division did engage in one odometer rollback case in 1979. In State of Iowa vs. Traub Car Sales, the state obtained a permanent injunction against a Mason City used car dealer enjoining him from rolling back automobile odometers. The defendant also agreed to refund \$5,000 to compensate sixteen purchasers of automobiles with rolled back odometers.

Perhaps the biggest automobile fraud case of all time was the General Motors engine switch case. In, In Re General Motors, the attorneys general of 49 states eventually agreed to a settlement offer for many tens of thousands of consumers on a nationwide basis. These were individuals who had purchased 1977 Oldsmobiles, Pontiacs and Buicks which contained Chevrolet engines. This information was never disclosed to the purchaser prior to or at the time of the sale.

The eventual settlement agreement offered each individual with such a vehicle a \$200 cash payment and an extended warranty also valued at \$200 for a total settlement package of \$400.

Approximately 1,400 Iowans were eligible to participate in the settlement and in the latter part of 1979, many Iowans who accepted the settlement did receive their settlement checks and extended warranties. To date, the office has been advised by 604 Iowans that they have accepted the settlement resulting in money and value obtained in the settlement totalling \$298,600.

The completion of the settlement of all the remaining engine switch complaints will be taken care of in 1980. The State of Iowa participated as one of the ten states involved in negotiating this settlement which may eventually involve recoveries for Iowans in excess of \$500,000.

In 1980, the Division anticipates that automobile complaints will once again lead all categories of consumer complaints.

BUSINESS OPPORTUNITY SCHEMES

One of the top ten categories of consumer complaints during 1979 were complaints about business opportunity schemes. During the year, the Division received 309 such complaints. Although this category only ranks as number eight, it is viewed as a serious problem.

Some of the other top ten categories involve legitimate purchases with accompanying problems and in many cases, all of the complaints are not "fraud" complaints. However, in the business opportunity area, this is not the case. Almost all of what the Division categorizes as "Business Opportunity Schemes" are, in fact, schemes established solely to part the unsuspecting consumer from his money.

A typical business opportunity ad would appear under the classified advertising heading of "Business Opportunities" in the local newspaper. It would offer an individual a sure-fire method of making "\$20,000 a year part-time or \$40,000 a year full-time for a minimal investment of \$5,000." Generally, those inquiring end up meeting a company representative in a

local motel and being pitched to purchase a franchise or distributorship to sell the company's products or services.

In most cases, Iowans are pouring their money down the drain for the receipt of relatively worthless over-priced products that either do not sell at all or cannot be sold by them at the suggested prices. Also, the company's fantastic promises of advertising and business set-up assistance are seldom, if ever, forthcoming.

During a number of years of working on business opportunity complaints, investigations and lawsuits, the office found that this category of complaint cannot be handled in the normal manner. The office cannot just wait for the victim to complain to us because by the time they do the company is often out of business and the principals have moved to another new locations. Often monies so lost are not recovered as the companies have no assets in Iowa nor any real company assets anywhere.

In January of 1979, the Division resolved to make business opportunity schemes a top priority for the year and stepped up its "Business Opportunity Project."

The office now reviews many major Iowa newspapers on a regular basis. In the "Business Opportunity" section of some Iowa newspapers, we find that 70 or 80 percent of the ads contained therein appear to be deceptive. Obviously, there are always a number of ads for a restaurant for sale, gas station for sale or another local, legitimate, true business venture. However, in many such columns we find that most of

the ads are placed by out-of-state companies offering high monetary returns for a low initial investment in some kind of a franchise or distributorship.

Once an ad is identified as being "questionable" we then send the company a letter of inquiry requesting certain information and asking the company to supply information documenting their earning potential claims. Companies that fail to respond to such requests are sent an official "Demand for Information" which if not answered can result in a lawsuit being filed against them asking that they be enjoined from any activity in the State of Iowa until they answer the Demand.

Out of the 22 lawsuits filed by the Division in 1979, fifteen were against companies offering fraudulent business opportunities. The defendants in these actions have obtained monies from Iowans in amounts ranging from as low as a few hundred dollars to as high as five to ten thousand dollars each for the purchase of various "get rich quick" schemes. The product really does not seem to make a great deal of difference other than it needs to be something that the fast-buck salesman can convince the victim is going to catch on and make the victim a great deal of money.

The one universal factor that seems to prevail in such litigation is that even when the state succeeds in stopping the company's illegal practices, we quite often are not successful in recovering the victim's monies. Thus, we have the primary reason for the increased activity in the "Business Opportunity Project" which is the goal of trying to stop the activities of questionable companies and enjoin their Iowa

advertising, solicitations and sales efforts PRIOR to the time that they are able to victimize a number of Iowans.

Although there is no way of measuring the monies that Iowans have saved by not being victimized by the many companies the office has put out of business, it certainly would have to be figured in the hundreds of thousands of dollars. Many Iowans are now calling the office prior to investing in such business opportunities and we quite regularly are advised by Iowans that the information we have furnished them about a particular company or about business opportunity investments in general has caused them to refrain from purchasing. Also, the continued media coverage of the large number of suits filed in this area acts as a warning to all Iowans about the general pitfalls they may face in considering such a purchase.

For 1980, we hope to continue to actively operate our Business Opportunity Project and expect to file at least one lawsuit a month against a deceptive business opportunity scheme. We also hope to publish a "Business Opportunity Pamphlet" which will be aimed at advising prospective investors of what they should look out for in this area. The pamphlet will also contain a number of suggested questions that an individual should obtain answers to prior to making such an investment and is expected to act as a guideline to encourage Iowans to invest in legitimate opportunities and not to lose their money in any of the many classical schemes.

CONSUMER CREDIT CODE

The Attorney General is directed by Chapter 537 of the Code to administer the Iowa Consumer Credit Code. Since 1974, the Attorney General has delegated primary authority for the administration and enforcement of the ICCC to the Consumer Protection Division. This responsibility includes resolving complaints, formulating and carrying out litigation, drafting legal opinions and educational activities. Additionally, the office coordinates its activities with various other Iowa agencies and with other states which have versions of the Uniform Consumer Credit Code.

The ICCC was adopted to establish a comprehensive set of standards and guidelines for uniform consumer credit. It sets disclosure requirements and regulates the substantive aspects of consumer credit transactions. Provisions of the Code unify maximum rate charge ceilings, curtail certain creditor collection techniques and generally govern consumer credit transactions. The ICCC also interacts closely with existing statutes in the areas of banking, small loans, industrial loans, credit unions, savings and loans, and the general usury statute.

Of the 9,303 written consumer complaints received during 1979 by the Consumer Protection Division, 525 of these complaints related to the ICCC. Over half of these complaints were about debt collection practices. In most instances, the office has resolved these matters via informal agreement with the lender or debt collector. In the case of a clear violation

of the statute, a letter of agreement from the respondent may be required in addition to basic redress for the aggrieved consumer. Other major areas of complaint included interest rates and questions about credit card problems.

ICCC litigation to date has been designed to protect Iowa consumers from broad violations of the ICCA and to help establish exact judicial interpretation of certain aspects of the statute. During 1979, three major lawsuits relating to the ICCA were completed. One of these cases was decided by the Iowa Supreme Court, a second by the Eighth Circuit Court of Appeals and a third by the United States Supreme Court.

In State of Iowa vs. Bank Americard, the main issue was whether the ICCA required compliance by a Nebraska national bank with the interest rates set out by the ICCA. If so, Iowans would pay a lower rate of interest on their Bank Americard than the rates imposed by the Nebraska issuer in compliance with higher rates allowed by Nebraska law.

Following long and complex litigation, during which the Iowa Supreme Court ruled in favor of the Attorney General, the United States Supreme Court decided a similar Minnesota case in favor of Bank Americard. The court held that a section of the National Banking Act pre-empted state law and allowed a national bank to charge all its customers, even those located in other states, the interest rate specified by the state in which it was located. The ruling of the United States Supreme Court in the Minnesota case was dispositive of the Iowa Bank Americard case. This decision does not apply to banks that are not national banks and does not apply to other lenders, such

as loan companies and mail order companies who sell on credit.

A second major lawsuit was State of Iowa vs. The National Farmers Organization of Corning, Iowa. The NFO had sold memberships to Iowa farmers to further their collective bargaining concepts. The petition filed by the Attorney General alleged violations of the ICCC claiming that debt collectors employed by the NFO were violating the debt collection provisions of Article 7 of the ICCC.

The district court ruled in favor of the defendant and an appeal was taken to the Iowa Supreme Court. On May 30, 1979, the Iowa Supreme Court upheld the lower court decision. The Iowa Supreme Court found that although a debt existed to the NFO from members for dues uncollected, that there had been no true "extension of credit" as defined by the ICCC. Consequently, the court held since there had been no extension of credit, the debt collection provisions of the ICCC did not apply to the NFO.

The most recent, and possibly the most important, decision interpreting the ICCC was Aldens, Inc., vs. State of Iowa. The plaintiff, Aldens, Inc., is a Chicago-based mail order company selling mail order merchandise to many Iowans on credit. The suit involves 20,000 Iowa Aldens credit customers. The state argued that the ICCC required the Illinois mail order company to assess rates of interest allowable by Iowa law.

In March of 1979, the United States District Court for the Southern District of Iowa ruled in favor of the State of

Iowa and found that the state had a historic right to prevent its citizens from being charged usurious rates of interest. This decision was appealed to the United States Circuit Court of Appeals for the Eighth District in St. Louis, Missouri.

On December 7, 1979, the Eighth Circuit Court of Appeals affirmed the district court's decision and strongly ruled in favor of the Attorney General's position. This landmark decision reaffirms the right of the State of Iowa to prevent certain out-of-state lenders from exacting usurious rates of interest from Iowa citizens. It applies to all out-of-state companies who sell to Iowans on credit and could well result in savings of hundreds of thousands of dollars per year for Iowans.

Attorneys in the Consumer Protection Division are also charged with drafting formal opinions of the Attorney General to clarify and interpret certain aspects of the ICCC. Several formal opinions relating to the ICCC were issued in 1979.

In August, the office issued an opinion ruling that interest rates exceeding five percent can be charged only pursuant to a bilateral written agreement between the parties entered into prior to the time of the extension of credit. This opinion had a far-reaching effect upon retailers and other "nonsupervised" creditors. Prior to that time, it had been a common practice in Iowa for creditors, such as doctors, dentists, retail stores, plumbers, electricians, etc., to assess a delinquency charge on purchases not paid within thirty days. Typically, there was no written agreement specifying

a time period for payment other than occasionally "due in 30 days."

As a result of many complaints and questions from both creditors and consumers, the opinion set forth the standards that were required for the assessment of a rate of interest higher than five percent. The issuance of this opinion made clear that on all accounts that did not have a proper bilateral written agreement, the interest rate requirements that would govern are the provisions of the Iowa usury statute. If there is a proper bilateral agreement, higher rates of interest may be allowed.

The ICCC requires the Administrator to establish educational programs with respect to credit practices and problems. Because the office does not have a large staff to devote to ICCC matters, there has been an emphasis on the education of the consuming public, the lending industry, and members of the bar about many of the provisions of the Act.

The language of the ICCC authorizes the Attorney General to adopt rules to implement and interpret provisions of the Act. Since these rules and regulations can clarify sections of the ICCC, the office will develop in 1980 a set of viable rules.

The first part of this effort has already been undertaken. Staff members have been in contact with all the other UCCC states to determine generally what has been done in the way of promulgating rules and legislation. A compendium of these rules and regulations is being prepared, and it will provide an excellent background for considering steps that may be taken by this office. Such rules will result in the conservation of

administrative time by eliminating confusion in certain sections of the Code. They will also add bite to the enforcement powers of the Administrator by developing a forum for hearings and a vehicle for issuing orders.

Finally, the office in its annual report to the Legislature has recommended a number of legislative changes to improve the ICCC.

ENERGY-SAVING DEVICES

Individuals and companies perpetrating schemes of fraud are always ready to seize upon specific economic conditions by conceiving new and ingenious scams. During 1979, the area of "energy-saving devices" was a perfect example of this.

Because of the energy crisis, a plethora of energy-saving devices were marketed during 1979, many of which were sold via the use of false and deceptive advertising and sale practices. The two basic areas the sale of such devices have been aimed at are:

1. The sale of gas-saving devices to motorists with the representation that they will vastly increase gas mileage.
2. The sale of energy-saving devices to the homeowner with the representation that they will greatly decrease the homeowner's utility bills.

Unfortunately, as most of these devices either do not work at all or do not live up to the represented savings claims, they are either not "cost efficient" at the best or they are "out-and-out frauds" at the worst.

Gas-saving devices are currently being advertised as offering great savings to the consumer at little cost. Although all devices on the market have not been tested, controlled scientific tests on a number of such devices do not show any significant improvement in fuel economy for cars in which they were installed. Such tests have been conducted by the Environmental Protection Agency, the Federal Trade Commission and the State of Iowa.

Examinations and investigations by the federal government of over one hundred gas-saving devices shows that not one of the devices tested has shown that it can achieve the desired result. Investigations of several different devices by the State of Iowa has had a similar result. In addition, some fuel-saving devices can actually damage an automobile.

Specific areas of misrepresentation found in investigating such devices include:

1. Substantial misrepresentations as to the percentage of fuel savings.
2. False representations that the device has been tested and approved by one or more government agencies.
3. False representations that the device has been properly tested and proven to live up to its advertised expectations by a competent private testing laboratory.
4. The use of false and deceptive private user testimonials.
5. Blatant misrepresentations in regard to alleged applicable scientific theories of fuel saving, which are not pertinent to the device being sold.

Examples of some of the devices currently being investigated by this office include a so-called "moleculator" that allegedly increases gas mileage 25% to 30% and is nothing more than a solid bar of aluminum which has no effect of any kind on gas run through it. Although other devices examined are not quite as blatant in their misrepresentations and in their complete inability to live up to the advertised expectations, they nevertheless constitute little more than flagrant consumer frauds.

The sale of home energy-saving devices is the most serious of the two areas of fraudulent energy-saving devices. The proliferation of such devices creates a conflict between the certain necessity that we must implement energy-saving measures for the homeowner and the problems involved in properly doing so. The two major problems with the various devices and systems available to reduce home energy consumption are:

1. Many such devices greatly misrepresent their ability to cut down the home heating bill.
2. Many devices and systems are not cost effective to the homeowner as their cost cannot be recaptured in energy savings within any reasonable period of years.

In the area of solar heating devices, we have both "passive" and "active" systems. The concept of passive solar heating is part of the structural design of the home for the purpose of saving energy and making natural use of the sun's rays. Active solar heating involves the purchase of a system for solar collection and storage.

It is our belief that currently most active solar heating systems are not cost effective for the homeowner and the expense of their installation cannot be recouped during the life expectancy of the system. However, within just a few years such systems may be perfected and their costs decreased so that they may very well become cost effective. Of course, if the cost of fossil fuels continues to increase, they may become cost effective even sooner.

The State of Iowa through the Attorney General's Consumer Protection Division and through the Iowa Energy Policy Council is deeply committed to energy-saving efforts. The goal of the Consumer Protection Division is to try and make sure that the marketplace is kept free of phony energy-saving devices and from the use of misrepresentations to promote the sale of legitimate devices.

In the area of solar heating, the Division has tried one case involving solar heating devices selling for almost \$300 per unit with representations that they would save 20% to 30% on heating expenses. The court found such representations to be false and misleading after hearing expert testimony that the devices would only result in very minimal savings and were, in fact, insufficient in size and collecting and storage ability to significantly affect a home heating bill.

In a pending consumer fraud lawsuit, the Division is suing an out-of-state company selling "surge suppressors" allegedly designed to reduce electrical bills by cutting out electrical surges that supposedly run through the meter. Investigation of

such devices throughout the country has found that they are relatively worthless. Certain other devices being sold, such as devices that automatically turn down the heat in the winter and turn off the air conditioning in the summer do appear to be worthy of the homeowner's consideration. Energy-saving problems and points in the insulation area will be discussed separately.

INSULATION PROBLEMS

For about two years, the office has been active in investigating individual complaints about the installation of home insulation materials and in making inquiries about insulation problems in general. In 1978, the office issued a detailed report on "Insulation Problems in Iowa" and later that year participated with the Iowa Energy Policy Council in insulation hearings.

There are two basic problems in the area of home insulation:

1. Problems caused by poor retrofit (added on) installation of insulation.
2. The inherent health and safety problems of some insulation materials.

Although the office has done some general inquiries in the area of health and safety problems of insulation, most of the office's efforts have been in investigating complaints about improper installation.

On the national level, several states have moved to halt or restrict the installation of urea-formaldehyde

insulation otherwise known as "foam" because of the inherent health problems posed by the release of formaldehyde gas. Lacking in staff with expertise in this highly technical area and lacking the large budget capabilities of the larger states, the office has not taken any action against the installation of urea-formaldehyde foam insulation, or any other form of insulation, based on purely health hazards.

To date, efforts have concentrated on problems caused by contractors who either improperly install retrofit insulation, improperly mix or prepare the insulation, or in some cases, fraudulently fail to deliver the products and services contracted for. Some of the installation complaints we have investigated include short fills, hazardous products caused by improper mixing, misrepresentation of the product itself or the quality of the work and property damage incurred by improper installation.

The investigation of retrofit insulation is, of course, hampered by the fact that it is placed within the wall cavities of the home by being injected from either the attic or in the case of foam, from small holes drilled into the wall cavities from outside the home. Naturally, in many cases no one really knows what kind of material has been placed in the wall cavity or whether or not the wall cavities have been filled as contracted for.

Early in our inquiries, we became convinced that the only way to investigate insulation installation problems was with the use of an infra-red camera. Such a device senses heat loss and converts heat loss to a picture. The picture by contrasting

of blacks and whites shows fairly distinctly the wall cavities between the studs and allows the viewer to determine what portion of the cavity has been filled with insulation and what portion has not.

Through the cooperation of the Iowa Energy Policy Council the Council did in the Fall of 1979 purchase a Hughes Probe camera to be used by the Council and also by the Consumer Protection Division.

In 1980, the office will use this device to investigate complaints against contractors who allegedly are engaging in "short-filling" as a method of doing business. Of course, a homeowner who contracts to have all of his wall cavities filled, but who only has 60% or 70% of the cavities filled has been defrauded out of the remaining percentage of the monies he paid.

In a few cases, individuals have removed inside wall panels in remodeling projects only to find much to their shock that many of their wall cavities have been only partially filled and some cavities have been skipped completely in the installation process. In cases where our investigation shows that insulation contractors are short-filling intentionally or repeatedly as a course of doing business, we intend to bring actions against them for violating the provisions of the Iowa Consumer Fraud Act.

The office has also taken an active role in dealing with members of the insulation industry. We have attended meetings of insulation contractors and explained to them how they are affected by the provisions of the Iowa Consumer Fraud Act and the

Iowa Door-To-Door Sales Act which requires them to give all homeowners a three-day cooling off period when contracting for the installation of insulation. We have operated a booth at a number of energy fairs throughout the state explaining to people the various problems and pitfalls of insulation and other types of energy conservation measures and devices. The maintaining of a fairly high profile with the insulation industry has encouraged a number of individuals to halt the use of certain questionable practices and a number of fly-by-night contractors we have investigated have left the state.

Consideration has been given to the idea of licensing and bonding all insulation contractors. In 1979, this office assisted the Legislative Research Bureau in working on a draft of such a proposed bill which did not pass in 1979, but has been introduced again in 1980.

As with other kinds of energy-saving measures discussed in the section on "Energy-Saving Devices," the area of insulation does, of course, definitely have two sides to the problem. There are many product deficiencies and dangers and problems with proper installation. On the other side of the coin, the proper addition of retrofit insulation in many uninsulated homes in Iowa can result in large energy savings over the years to come.

The office intends to engage in a conscientious effort to cooperate with other state agencies who are encouraging the proper use of insulation as an energy-saving measure. We hope through our efforts to try and drive deceptive insulation contractors out of the marketplace so that the honest contractor may be

free of this unfair competition. We will also be keeping abreast of various federal activities in the insulation area by the U.S. Consumer Product Safety Commission and others so that Iowans may be kept aware of any health hazards posed by various insulation materials. In early 1980, the office will publish an informational pamphlet on "Insulating Your Home."

INVOICE SOLICITATION SCHEMES

One prominent 1979 consumer fraud was fraudulent invoice solicitations. Typically, companies operating such schemes send billings to businesses, churches, hospitals, schools and government entities billing them for products or advertising they never ordered and may never receive. The billing is disguised as an invoice for goods or services already ordered in the hopes of inducing the recipient to process and pay it in its regular bill-paying procedure.

In 1979 the office received 111 written complaints involving phony invoice schemes. Realistically, this only skims the surface, and the office believes that thousands of Iowa businesses are victimized each year in this process. If the recipient of such an invoice is deceived into thinking it is something they ordered and if the merchandise is later delivered, the fraud often goes undetected and even if detected is seldom reported. Perhaps the best recommendation to a business to save being victimized by this process is the establishment of a double-checking procedure for the payment of bills to companies whom the business does not normally make purchases from.

In 1979, the Division filed one lawsuit against a phony invoice scheme. In State ex rel Miller v. U.S. Buyers Guide, et al, the case alleges that the invoices are prepared in such a way that there is no disclosure on their face that it is a solicitation and that they appear on their face to be an invoice or a bill for goods or services ordered and not a solicitation for the sale of new merchandise. Several similar suits are anticipated being filed in 1980.

Although many individuals think that losses from this type of consumer fraud are very small, this is not the case. Last year the office viewed fraudulent invoices for amounts ranging anywhere from only a few dollars up to amounts of \$400 or \$500 for such products as ice-melting pellets in invoices sent to many Iowa cities and towns. Although there was no way to accurately measure the total amount of monies that Iowa businesses, churches, groups and government bodies are victimized out of each year by this type of scheme, the amount is certainly quite large and constitutes a major area of concern to the Division.

LITIGATION

During 1979, the Consumer Protection Division handled a total of 73 lawsuits. Of these, 37 were completed during 1979 and 36 were still pending as of January 1, 1980. The Division filed 22 new lawsuits for the year. Nineteen seventy-nine was, in fact, the busiest year ever for the Division in regard to litigation activities. The following is a brief description of the 73 lawsuits:

CLOSED CASES

1. State v. Delbert Cook d/b/a Cook's Remodeling, Polk County, Closed January 15, 1979. In this case 25 Iowans complained that the defendant advertised certain prices for remodeling, plumbing, heating and electrical work and then charged substantially more. Complainants also complained about improper work and threatening collection activities in regard to contested billings together with the defendant's failure to give them their three day cancellation notices pursuant to the Iowa Door-To-Door Sales Act. A permanent injunction was issued enjoining the defendant from any further violations and the defendant paid \$2,000 in restitution to the complainants.

2. State of Iowa v. James R. Walsh d/b/a Educational Scientific Publishers, Polk County, Closed January 22, 1979. The defendants in this case were selling family trusts to the public representing that buyers could substantially save on federal and state income and inheritance taxes. Such representations were determined to be false in that the promised tax savings would not be obtained by the defendants' scheme. The defendants were permanently enjoined from continuing such sales activities.

3. Zehr v. Southwest Land Corporation, U.S. District Court for the Western District of Texas, Closed February 6, 1979. This was a class action the State of Iowa intervened in to collect on a judgment the state obtained against the Southwest Land Corp. in a separate consumer fraud lawsuit. The out-of-state land developer was also in bankruptcy and neither the state's intervention in bankruptcy proceedings nor the state's intervention in the class action produced any restitution.

4. State v. Recreation Leisure Land Corporation, Polk County, Closed February 20, 1979. The lawsuit against this Arizona-based land sales company charged the company with numerous misrepresentations about the land involved. The company was permanently enjoined from continuing the use of various misrepresentations about the status of development in its various communities. Altogether 39 complainants were paid refunds totalling \$44,320.76 which, coupled with a court order cancelling out balances due on contracts, resulted in total savings to the 39 Iowans of \$291,721.14.

5. State v. Eddie J. Robbins, Pottawattamie County, Closed February 27, 1979. This case charged the defendant with violating the Iowa Consumer Fraud Act and the Iowa Subdivided Land Sales Act in connection with the sale of subdivided land in the southwestern United States. The court's decision in this case permanently enjoined the defendant not only from making any misrepresentations to Iowans in this area but it also permanently enjoined him from conducting sales, advertising, solicitations or any business in Iowa either while present there or from outside Iowa via mail or telephone. As the defendant had recently been released from prison and had no known assets, a restitution judgment in the amount of \$56,440 remains uncollected.

6. State v. L. O. C. Industries, Inc., Polk County, Closed March 12, 1979. This case charged the defendants with making misrepresentations when selling Iowans distributorship rights to market a product that allegedly sealed flat tires. Although the court ordered the defendants to stop their Iowa sales activities, the defendants went out of business and after several

attempts to locate assets of the defendants in the State of Tennessee were unsuccessful, a judgment for restitution of \$76,426 remains uncollected.

7. State v. Town of LeGrand, Marshall County, Closed March 12, 1979. The state sued the Town of LeGrand arguing that their late payment charges on municipal water bills constituted an interest rate in violation of the Iowa usury statute. The trial court ruled that the Town of LeGrand was charging a usurious late payment charge of 10% for a one-day late payment resulting in an effective annual rate of 3,650%. However, after the Iowa Supreme Court ruled to the contra in State of Iowa v. City of Altoona, the district court decision against the City of LeGrand was quashed.

8. State vs. Armco Industries a/k/a Worm World, Inc., Polk County, Closed March 12, 1979. This lawsuit charged that the defendants had defrauded 18 Iowans in connection with selling them distributorships to grow worms at home for profit. The court found that the defendants had misrepresented the number of worms that would be delivered and had not honored their promise to buy back all worms that individuals would grow. The defendants were permanently enjoined from engaging in such business in Iowa, but were found to be execution proof and no recovery was obtained for the victimized complainants.

9. State v. The City of Altoona, Polk County, Closed March 12, 1979. In this case, the State of Iowa charged the City of Altoona with having late payment charges on their municipal

water bills in violation of the Iowa usury statute. The Polk County District Court ruled in favor of the state and permanently enjoined the defendants from continuing to collect or impose any late payment charge in excess of 9% per year. In January of 1979, the Iowa Supreme Court reversed this decision holding that the statute that authorized municipalities to own and operate utilities also gave them the right to impose late payment charges which were not subject to the limits of the Iowa usury statute.

10. State v. David L. Burgett d/b/a Universal Art Products, Polk County, Closed March 28, 1979. This case charged the defendants with selling photo packages to consumers entitling them to sixty studio-type pictures for \$120. Complainants alleged the defendant did not furnish the pictures ordered and was not available to honor his contract agreements. Although the court permanently enjoined the defendant from engaging in such activity, he was out of business and insolvent and a restitution order for \$2,065.72 remains uncollected.

11. State v. International Media Consultants, Inc., Polk County, Closed April 10, 1979. The defendants in this case were charged with the use of fraud and misrepresentation in connection with the promotion and sale of advertising coupon books. A permanent injunction was issued halting the defendants' illegal activities and a judgment for \$2,371.49 remains uncollected against the defunct Washington corporation.

12. State v. Gerald Ballard, Polk County, Closed April 12, 1979. The defendant in this case was accused of doing improper plumbing work and falsely representing that he was a licensed

plumber. The defendant was permanently enjoined from making false representations in violation of the Iowa Consumer Fraud Act and was permanently enjoined from doing any plumbing work at all until he becomes properly licensed.

13. State v. Willex Products, Polk County, Closed April 18, 1979. The defendants in this case were charged with the multi-level distributorship sale of soap products in violation of the referral sales prohibitions of the Iowa Consumer Fraud Act. After trial, the court ruled that the state's prohibition against referral selling and referral sales rebates was constitutional and the defendants were permanently enjoined from making such distributorship sales in the state. A restitution judgment in favor of 108 Iowa complainants for \$196,381.83 was obtained. After the defendant corporation went into bankruptcy in federal court in Nebraska, the state's judgment was filed as a "Proof of Claim" in the bankruptcy proceeding and any restitution awaits the disposition of the debtor's assets by the Federal Bankruptcy Court.

14. State v. Jack West a/k/a West Enterprises, Grundy County, Closed April 18, 1979. This case charged the defendant with the use of false representations in connection with the sale of silver futures contracts. The defendants were enjoined from further violations of the Iowa Consumer Fraud Act and ordered to restore \$160,000 to their Iowa victims. Restitution in the amount of \$96,700 was obtained from the defendants. After the out-of-state corporation became insolvent, collection of the remaining amount of \$50,449.80 was determined to be impossible.

15. State v. Southwest Land Corporation, Polk County, Closed April 26, 1979. This lawsuit was against a Texas-based subdivider of land located in Texas and New Mexico. After a three week trial, the defendants were enjoined from any further violations of the Iowa Consumer Fraud Act in connection with misrepresentation of the value of their property and misrepresentation of the state of its development or promised future developments. In addition to halting the defendants' Iowa sales activities, the court also gave all Iowa purchasers the right to void out their contracts and be free of any obligations to pay the balances due. This contract voidance order saved Iowans approximately \$1 Million over a several year period as they exercised their options to void out the balances due on their contracts. A restitution judgment in the amount of \$424,373.43 was issued in favor of 340 Iowans who had paid that amount to the defendants. However, the defendants went through bankruptcy in federal court in Texas. Although the state filed a Proof of Claim for the amount of its restitution judgment and the cost of the case, the assets of the debtor in bankruptcy were insufficient to pay even the cost of the bankruptcy proceedings.

16. State v. Dahl Motors of Davenport, Inc. Polk County, Closed April 30, 1979. This case charged the defendants with the use of deceptive practices in connection with the sale of a rust-proofing service on new cars. The claim was that a purchaser had been told that his car would be rustproofed by Ziebart, a patented process, when in fact, it was rustproofed by the dealership itself with another process. When the purchasers attempted to have the Ziebart contract honored at a Ziebart center two years later, they

found that they were not covered. In the settlement agreement, the defendants paid \$1,150 to the aggrieved purchaser to compensate the purchaser for their damages and the defendants agreed to discontinue the complained-of practice.

17. State v. SMP, Inc. and Galloping Groomer, Polk County, Closed May 2, 1979. The defendants in this case were charged with making certain misrepresentations in connection with the sale of franchises for the establishment of mobile pet grooming facilities. After all the defendants left the state and could not be located and after it was determined they had no Iowa assets, the case was dismissed.

18. State v. Robert Klein, Polk County, Closed May 2, 1979. This case charged the defendant with making false representations in connection with the sale of an antique car in a national car magazine. The Polk County District Court permanently enjoined the defendant from making any further similar representations and a restitution judgment in the amount of \$2,200 was obtained for the complainant to be collected in the State of New York by the complainant's private attorney.

19. State v. Mohawk Marketing Corporation, Polk County, Closed May 7, 1979. This case charged the defendants with the use of false representation in connection with the business opportunity sales of candy vending machine operations. The court has permanently enjoined the defendants from engaging in such business in the State of Iowa.

20. State v. Park Central Corporation, Polk County, Closed May 7, 1979. This case charged the defendants with the use of false representations in connection with the sale of business opportunities in candy vending machine distributorships. The Polk County District Court has permanently enjoined the defendants from conducting any further such business in Iowa.

21. State v. Northeast Marketing Services, Inc., Polk County, Closed May 7, 1979. This case charged the defendants with the use of false representations in connection with the business opportunity sale of vending machine distributorships. After it was determined that the defendants were no longer in business in the State of Iowa, had not made any sales to Iowans and the defendant's companies no longer existed or were in business, this case was dismissed.

22. State v. Lorsan, Inc., Polk County, Closed May 7, 1979. This case accused the defendants of false representations in connection with their business opportunity sale of vending machine distributorships. After it was determined that the defendant was not doing any further business in Iowa, had not made any sales to Iowans and that the defendant corporation no longer existed or was in business, the case was dismissed.

23. State v. International Entertainment Company, Inc., et al, Polk County, Closed May 30, 1979. This case charged the defendants with the use of false representations in connection with the business opportunity sale of vending machine distributorships. The Court permanently enjoined the defendants from any further sales activities in Iowa.

24. State v. Tanneycomo Projects, Inc., and Venice on the Lake, Polk County, Closed June 1, 1979. This lawsuit charged the Missouri-based defendants with the use of certain false and deceptive practices in connection with the advertising, soliciting and sale of their "Venice on the Lake" land development. The defendants were charged with violating both the Iowa Consumer Fraud Act and the Iowa Subdivided Land Sales Act. The court permanently enjoined the defendants from any advertising, solicitation or sales activities in or to the State of Iowa until such time as they obtained a proper registration pursuant to the provisions of the Iowa Subdivided Land Sales Act. All Iowans who had purchased from the defendants during the period of time they were selling illegally were offered the opportunity to obtain contract cancellation and full restitution. Four of the twelve individuals so sold by the defendants chose those option and cash restitution was obtained and paid to them in the amount of \$10,353.84.

25. State v. Cash Card Corporation, Polk County, Closed June 4, 1979. This case accused the defendants of false representation in connection with the business opportunity sale of discount card distributorships. A permanent injunction was issued enjoining the defendants from doing any further business in the State of Iowa.

26. State v. James Richard Tschertter, Calhoun County, Closed June 11, 1979. This case charged the defendant with the use of viciously deceptive sales practices in connection with the sale of worthless stock to two elderly Iowa widows. After trial,

the Calhoun County District Court enjoined the defendant from any further such illegal sales activities and ordered him to restore \$43,256.27 to the two victims. The court ruled that the defendant had violated the Iowa Consumer Fraud Act by the omission of known material facts wherein he did not disclose facts that he knew about the stocks he sold the victims which definitely affected their value. Through a long series of execution efforts, the state was able to collect approximately \$13,000 of the amount of the judgment for restitution to the victims.

27. State v. National Marketing Services, Story County, Closed June 25, 1979. This case accused the defendants of the use of false representations in connection with the business opportunity sale of toy distributorships. A permanent injunction was obtained halting all of the defendants' sales activities and a restitution judgment in the amount of \$101,353 was obtained for the Iowa victims. The state was able to obtain collection of \$53,500 from the now defunct Las Vegas, Nevada, defendant and these monies were distributed to the victims reimbursing them at a rate slightly in excess of 50 cents on the dollar. However, the remaining amount of the judgment remains uncollectible and the victims have been so advised. The company did business throughout the United States and defrauded thousands of individuals out of several million dollars. The State of Iowa was the first state to file suit against the defendants and was one of the only states to recover any monies for its victims before the company went under.

28. State vs. Tower Furniture and Appliance, Pottawattamie County, Closed June 25, 1979. This case involved the state's investigation of the defendant's advertising promotion of free gifts to induce the sale of soap products. After the defendants refused to answer a subpoena issued under the Consumer Fraud Act, suit was filed to enforce the subpoena. During the pendency of litigation, the defendants responded by providing the information demanded by the state's subpoena and the enforcement suit was dismissed.

29. State vs. Larry Thomas d/b/a Larry's Home Repairs, Polk County, Closed June 25, 1979. This case charged the defendant with the use of various false representations in connection with the operation of his home improvement business and with violating the Iowa Door-to-Door Sales Act by failing to give his customers their proper 3-day notice cancellation rights. A permanent injunction was obtained against the defendant together with a restitution judgment in the amount of \$16,230.75 which to date remains uncollected against a relatively insolvent individual.

30. State vs. National Farmers Organization, Madison County, Closed July 23, 1979. This lawsuit charged the National Farmers Organization of Corning, Iowa with the use of certain debt collection practices in violation of the Iowa Consumer Fraud Act. The defendants were using these debt collection practices in connection with collection efforts to collect from Iowa farmers NFO dues that sometimes had been uncollected for ten to fifteen years. The case went through the Iowa Supreme Court and in 1979 the Iowa Supreme Court found that

although a debt existed between the NFO and its members, there had been no original extension of credit and therefore, the provisions of the Iowa Consumer Credit Code on debt collection did not come into play. The end result was a determinative ruling from the Iowa Supreme Court that although a company may be violating the provisions of the Iowa Consumer Credit Code in connection with debt collection practices that such activities are not a violation of the Code unless there had been an original "extension of credit" between the collector and the debtor.

31. State v. Hidalgo Development, Scott County, Closed July 27, 1979. This lawsuit charged the New Mexico-based land developer with fraudulent and deceptive advertisement, solicitation and sales practices in connection with the sale of lots in their various land developments. In addition to being charged with violating the Iowa Consumer Fraud Act, the defendants were also charged with violating the Iowa Subdivided Land Sales Act in connection with their sale of "arid grazing land" as prime investment and home building sites. A permanent injunction was issued against the defendants enjoining them from any further violations of both statutes and a restitution judgment was obtained in the amount of \$16,477.41 for a number of Iowa victims. A total of \$9,003.45 was recovered on this judgment and the balance due is uncollectible against the defunct defendants.

32. State v. First of Omaha Service Corporation d/b/a Bank Americard, Polk County, Closed August 27, 1979. This lawsuit charged Bank Americard with the implementation of interest rates in excess of those interest rates allowed by the Iowa Consumer

Credit Code. Although the Iowa Supreme Court had earlier ruled in the state's favor, a decision of the United States Supreme Court in a similar case involving Bank Americard forced a reversal of this decision. Since Bank Americard cards were issued by a national bank, the National Banking Act pre-empted the Iowa Consumer Credit Code and allowed the out-of-state national bank to charge its Iowa credit card customers interest rates allowable under Nebraska law even though they were higher than those allowed under Iowa law. This exception from the application of the Iowa Consumer Credit Code applies only to out-of-state national banks because of the pre-emption of state law by the National Banking Act.

33. State v. Thunderbird Valley, Inc. Polk County, Closed August 29, 1979. This case charged the defendants with violating the Iowa Consumer Fraud Act and the Iowa Subdivided Land Sales Act in connection with their deceptive sales of Arizona desert land to Iowans. The defendants also induced many Iowa investors to purchase notes and mortgages of other investors as an investment. A permanent injunction was issued against the defendants who eventually went into bankruptcy. The office was able to obtain partial refunds for a number of victims and was able to obtain property deeds for other victims who had been unable to obtain title to their property. The remaining monies due were filed as a Proof of Claim by the state in the bankruptcy action.

34. State v. Adair County Livestock Market Center, Benton County, Closed November 1, 1979. This lawsuit charged the defendants with the use of deception and misrepresentation in

connection with the sale of feeder cattle. The case was filed in 1978 and after the establishment of the Attorney General's Farm Division in 1979, it was transferred to the Farm Division on November 1, 1979, and will be completed by the Farm Division.

35. State v. Black Hawk County Garden of Memories, Inc., Black Hawk County, Closed November 30, 1979. This case charged the defendants with selling pre-arranged funerals without putting 80% of the money paid by purchasers in trust as required by Iowa law. The state argued that such an omission was in violation of the Iowa Consumer Fraud Act. The court's decision ordered the defendants to put 80% of all monies so collected in trust for the protection of their customers.

36. State v. Gary Thompson d/b/a Advanced Design Modules, Inc., Polk County, Closed December 7, 1979. This case charged the defendant contractor with failure to pay suppliers of materials and labor resulting in purchasers of hog confinement systems having to pay twice for materials and labor furnished. The Division obtained a permanent injunction against the defendant enjoining him from conducting any advertising, soliciting or sale of consumer goods in the State of Iowa and from collecting or accepting any money from Iowans until such time as he has complied with the provisions of the Iowa Consumer Fraud Act.

37. State v. Kenneth Hamilton d/b/a Sun Theatrical Productions, Scott County, Closed December 10, 1979. The defendants here were charged with the use of false and deceptive sales practices in connection with their business of selling tickets to entertainment programs for alleged charitable purposes. The

defendants were charged with over-selling for specific shows and with not properly providing the sponsoring charity with their promised percentage of the profits. The court enjoined the defendants from the continuation of any such sales practices and also ordered them to properly disclose on all future sales efforts exactly who they were rather than falsely representing that they were members of the sponsoring charitable organization.

PENDING LAWSUITS

1. State v. Midwest Development Corporation, Webster County. This case charged a long series of owners of two cemeteries in Fort Dodge and Algona, Iowa, with certain deceptive practices in connection with failing to place monies in trust as promised for the purchase of pre-need cemetery merchandise such as vaults and headstones. After the case went to trial on October 2, 1979, settlements were made with all major defendants establishing a restitution fund of \$35,736.86 to be distributed to 363 complainants. The restitution checks were mailed out beginning in late December, 1979, and the case will be completed in early 1980. The collection of these monies completes litigation began in 1968 which has made three trips through the Iowa Supreme Court in the last twelve years.

2. Aldens, Inc., v. Turner, United States District Court. This case was a lawsuit filed against the Attorney General by Aldens, Inc., an Illinois-based mail order company. Aldens claimed they should be allowed to charge the higher rates of interest allowed by Illinois law rather than the lower rates of interest

set forth by the provisions of the Iowa Consumer Credit Code. On December 7, 1979, the U.S. Circuit Court of Appeals in St. Louis ruled in the State of Iowa's favor. The court ruled that Aldens has to abide by the provisions of the Iowa Consumer Credit Code which sets a limit of 18% on such charges up to \$500. Aldens was attempting to charge Iowans the Illinois rate of 21% up to \$350. Aldens, Inc., has indicated they may appeal the Circuit Court's decision to the United States Supreme Court in early 1980.

3. State v. Aldens, Inc., Polk County. This is the State of Iowa's lawsuit against Aldens, Inc., a companion case to Aldens, Inc. v. Turner, above. In this case, the state seeks a permanent injunction against Aldens ordering it to comply with the provisions of the Iowa Consumer Credit Code. A temporary injunction was issued earlier and the recent U.S. Circuit Court of Appeal's decision makes it appear that the injunction will be made permanent unless this is delayed by an appeal by Aldens to the United States Supreme Court. The state's action against Aldens for violating the provisions of the Iowa Consumer Credit Code also seeks restitution of approximately \$130,000 to \$150,000 for approximately 20,000 Iowa Aldens credit customers who were charged the illegal higher rate from the date the Iowa Consumer Credit Code went into effect on July 1, 1974, to the date that the temporary injunction was issued and the rate was lowered in the Fall of 1976. In early 1980, the state will seek a hearing on its request that the temporary injunction against Aldens be made permanent and that restitution be ordered for eligible Iowa Aldens, Inc. credit customers.

4. State v. Villager Restaurant International, Poweshiek County. This case alleges the use of deception in connection with the sale of restaurant franchises.

5. State v. Gordon Copley, Polk County. This case alleges that the defendant used fraud and misrepresentation in connection with his aluminum siding and home improvement business. A permanent injunction and restitution order has been entered. The state obtained a contempt citation against the defendant for violation of the court's order and this is currently on appeal to the Iowa Supreme Court. The state is also proceeding in Polk County District Court to seek to have the defendant imprisoned for failure to comply with certain work completion orders of the court.

6. State v. Durbin, Palo Alto County. This case charges the defendant with the use of misrepresentations in connection with the operation of his tree surgeon business in violation of the Iowa Consumer Fraud Act and the Iowa Door-To-Door Sales Act. The case was tried on August 22, 1979, and the state is awaiting the court's decision.

7. State v. CHAS Industries, Polk County. The defendants here were charged with falsely operating a business opportunity scheme for the sale of cleaning products. The state has completed collection of about \$7,500 for the defendants' victims and is currently attempting to collect certain balances due for state cost and court cost judgments.

8. State v. Friedman Motors, Inc., Polk County. The defendants here were charged with falsely representing cars they

had purchased from large nationwide daily leasing companies were factory demos or factory exec cars. A permanent injunction has been obtained against the defendants together with a settlement agreement where each individual who purchased such a car can elect to obtain a \$200 restitution payment from the defendants in settlement of the claim. Fourteen individuals to date have claimed such restitution and the complaints of the remaining victims are expected to be completed in early 1980.

9. State v. Solar Electric, Polk County. The defendants here were charged with fraud and misrepresentation in connection with their advertising and sales claims for their solar heating devices. After trial, the defendants were enjoined from misrepresenting the heating and energy saving capacity of their devices and were ordered to make restitution in the amount of \$12,000. The state is in the process of collecting monthly payments on this restitution judgment and hopes to complete the collection of all or a major part of the judgment during 1980.

10. State v. Jimbo's Beef, Polk County. This case charged the defendants with the use of bait-and-switch advertising in connection with their sale of beef halves and quarters. The operating defendants have left the state and apparently are no longer in business and the case is basically proceeding against the finance company involved with whom the state is currently attempting to negotiate a settlement package that will provide partial restitution for the victims of this beef-baiting scheme.

11. State v. Traub Car Sales, Cerro Gordo County.

The defendant in this case was charged with rolling back the odometers on a number of motor vehicles sold by him. The state has obtained a permanent injunction against the defendant enjoining him from any further odometer rollbacks or any further violations of the Iowa Consumer Fraud Act. The defendant has established a \$5,000 refund account for restitution payments to compensate 16 purchasers of cars with rolled-back odometers. These restitution payments are expected to go out in early 1980 to complete this case.

12. State v. Small World Enterprises, Inc., Polk County.

This is a business opportunity scheme where the defendants sold toy distributorships with a variety of false representations. A temporary injunction has been issued against the defendants which should be made permanent in early 1980.

13. In Re General Motors, U.S. District Court for the Southern District of Illinois. In probably the biggest automobile fraud case of all time, the attorneys general of many states moved against General Motors in the so-called "Chevymobile" case where tens of thousands of consumers on a nationwide basis purchased 1977 Oldsmobiles, Pontiacs and Buicks which contained a Chevrolet engine. This information was never disclosed to purchasers prior to or at the time of sale. The eventual settlement agreement between the State of Iowa and General Motors offered each individual with a covered vehicle a \$200 cash payment and an extended warranty also valued at \$200 for a total settlement package of \$400. Approximately 1,400 Iowans were eligible to participate in

the settlement and in the latter part of 1979, many Iowans who accepted the settlement began receiving their settlement checks and extended warranties. To date, the office has been advised by 604 Iowans that they have accepted the settlement resulting in money and value obtained in the total of \$298,600. The completion of the settlement of all remaining engine switch complaints will be taken care of in 1980. The Iowa Attorney General's Office was one of ten states participating in the "Settlement Committee" established by the National Association of Attorneys General that hammered out the nationwide settlement agreement. Recoveries and savings for Iowans who accept this settlement offer should eventually exceed \$500,000.

14. State v. Palm Restaurant, Inc., Polk County. This suit charges the defendants with misrepresentation in connection with the business opportunity sale of restaurant franchises. The defendants appear to be insolvent and all are out of state and may eventually be criminally prosecuted. A decision will be made in early 1980 as to whether or not the case is worth pursuing by the Consumer Protection Division or whether it should be dismissed.

15. State v. Vegas Bay Corporation, Polk County. This is a suit against a business opportunity scheme selling fiberglass home manufacturing kits and businesses to manufacture van shells. This is similar to the above case where the out-of-state defendants appear to have no assets and may eventually be criminally prosecuted. In early 1980, a decision will be made as to whether or not the case is worth completing by the Division or whether it should be dismissed.

16. State v. Diversified Ventures, Inc., Polk County. This case is against defendants promoting the sale of business opportunities in jewelry distributorships. A temporary injunction has been obtained against the defendants and a permanent injunction should be issued in early 1980.

17. State v. American Frontier Alarm Systems, Polk County. The defendant in this case is charged with using fraud and misrepresentation in connection with selling alarm systems for hog confinement barns to Iowa farmers. A permanent injunction and restitution order has been issued against the defendant but to date, collection has not been obtained. The defendant is an Iowa resident and an investigation is currently underway seeking assets of the defendant for collection of the judgment against him.

18. State v. International Marketing & Engineering, Inc., Polk County. This case involves the business opportunity sale of "surge suppressors" allegedly designed to reduce electrical bills. The defendants are now in bankruptcy proceedings in another state. The Division will reduce its case against them to a permanent injunction and restitution judgment which will be filed as a Proof of Claim in the bankruptcy proceedings.

19. State v. Larry Thomas, Polk County. This case completed earlier by the obtaining of a permanent injunction and restitution order against the defendant was at one time closed as the Division believed it would be impossible to collect on its \$16,000 judgment against the defendant. However, after uncovering information leading to a possibility of such recovery,

the case was reopened and the defendant eventually entered into an agreement with the state wherein he is making some monthly payments on the restitution judgment. Although it is unlikely that the full judgment will ever be recovered, it is anticipated during 1980 that at least part of the victims' money will be recovered.

20. State v. R-Key, Ltd., Polk County. The defendants here are accused of false representations in connection with the business opportunity sale of plastic sign-making distributorships. The defendants are now in default for failing to respond to the state's case and a default judgment is expected to be taken against them in early 1980.

21. State v. Intranational Marketing Corporation, Polk County. The defendants here operate a business opportunity scheme selling magazine vending machine distributorships. A permanent injunction was issued against the defendants in October of 1979 and the state is currently attempting to collect on its restitution judgment.

22. State v. Compuvend, Ltd., Polk County. The defendants here are conducting a business opportunity scheme involving vending machine distributorship sales of crackers and cookies. This case came to light during the operation of the state's "Business Opportunity Project." This is a classical example of the kind of schemes sought to be uncovered by the project as the defendants were unable to substantiate their profit-making claims and the lawsuit was filed BEFORE they had made any Iowa sales and before any Iowans were defrauded. The defendants are expected

to enter into an "Assurance of Voluntary Compliance" agreeing not to ever again advertise, solicit or sell in the State of Iowa. This is one of the goals of the Business Opportunity Project, to stop such companies before they have Iowa victims since as can be seen from the summaries of a number of these business opportunity cases, collection of restitution judgments against such out-of-state companies is often impossible.

23. State v. Gourmet Systems, Inc., Polk County. These defendants operate a business opportunity scheme selling wine and nut vending machine distributorships. A temporary injunction was issued against the defendants in October of 1979 and a permanent injunction should be issued closing the case in early 1980.

24. State v. Key Associates, Polk County. The defendants here operate a business opportunity scheme selling energy-saving device distributorships. Filed in late 1979, the defendants' 60 day time to answer the state's petition is still running.

25. State v. Detroit Automotive Services, Inc., Polk County. This case charges the defendants with selling automobile brokerage distributorships not only with the use of misrepresentations in violation of the Iowa Consumer Fraud Act but also in violation of the Iowa prohibition that such automobile brokerages are illegal to operate in the state. The defendants' time to respond to the state's case is still running.

26. State v. Garden Centers, Inc., Polk County. These defendants engaged in the business opportunity sale of plant distributorships. After negotiations with the defendants' attorneys, the Division is preparing a Consent Order for a permanent injunction which should be entered in early 1980.

27. State v. Broome Consultants, Polk County. The defendant in this case engages in business as a "loan finder" and is accused of making false representations in connection with his ability to actually secure loans for interested Iowans. The defendant charges an "advance fee" promising to obtain such loans but according to the state's lawsuit, never does. This case is currently pending and should go to hearing on the state's petition in early 1980.

28. State v. U.S. Buyers Guide and National Business Directory, Polk County. These defendants operate a phoney invoice scheme soliciting Iowa businesses to pay for merchandise they never ordered, authorized or received. The defendants' time to answer is still running.

29. State v. Associated Schools, Inc., Polk County. This lawsuit charges the defendants' Florida trade school operation with fraud and misrepresentation in connection with the sale of airline and travel agency training courses. In addition to charging the defendants for violating the Iowa Consumer Fraud Act, the case also charges the defendants with failing to register as a foreign corporation and seeks the implementation of a \$100-a-day penalty against them. The defendants' time to answer is still running.

30. State v. Marketex International Advertising Agency, Polk County. This lawsuit charges the defendants' Nevada corporation with deceptive sales in connection with candy vending machine distributorships promising Iowa investors over \$32,000 per year in guaranteed income. The defendants' time to answer is still running.

31. State v. Cactus Garden, Inc., Polk County. This lawsuit against two Georgia corporations charges them with deceptive sales practices in selling business opportunity distributorships of plant items. The suit also charges the defendants with failing to be registered as a foreign corporation in violation of Iowa corporation laws. The defendants' time to answer is still running.

32. State v. Ascott Furriers, Inc., Polk County. This lawsuit charges a Florida-based seller of "new and used furs" with violations of the Iowa Door-To-Door Sales Act and the Iowa Consumer Fraud Act. The defendant advertises and sells new and used furs at various locations in Iowa from hotel and motel establishments. The defendant has indicated willingness to comply with Iowa law in the future and the office anticipates completing this case with the entry of a Consent Decree.

33. State v. Wheels Unlimited and Gary Massey, Scott County. This lawsuit charges the Moline, Illinois, defendant with selling illegal auto brokerages in Iowa and making false profit representations in addition to failing to register as an out-of-state corporation. The defendant's time to answer is still running.

34. State v. Figure Girl, Inc., Polk County. This lawsuit charges the New Jersey corporate defendant with selling Polk County area residents over \$11,000 worth of memberships to a proposed health spa that never opened its doors. The office currently has complaints for restitution pending against the defendant from approximately 300 Iowans who were sold pre-opening membership for

\$39.95 in a spa that never got off the ground. The defendant's time to answer is still running.

35. State v. International Auto Brokers, Polk County. This suit charges the Kansas City, Missouri-based defendants with illegally selling business opportunities for automobile brokerages in violation of the Iowa Consumer Fraud Act. The case also seeks restitution for several defrauded Iowa purchasers. The defendants' time to answer is still running.

36. State v. Direct Auto Buying Service, Inc., Polk County. This is a similar suit to the above against an Atlanta, Georgia, company selling automobile brokerages. It is believed that this suit was filed before the defendants could obtain monies from any Iowa victims. The defendants' time to answer is still running.

As can be seen above, 1979 was the busiest year ever for Consumer Protection Division attorneys in handling litigation. The Division starts 1980 with 36 pending lawsuits and expects to have an even busier year in 1980.

The Division's goal for 1980 is the filing of 36 new lawsuits. Several other goals in the litigation area include filing more lawsuits in various counties around the state and filing a number of lawsuits for the establishment of important precedents to interpret the provisions of the Iowa Consumer Credit Code.

SUBDIVIDED LAND SALES

From the 1950's through the early 1970's the sale of out-of-state subdivided land to Iowa residents was by far and away

the "major" consumer fraud of that era. During some of the years in question, it was estimated that Iowans were signing up to about \$50 million a year in contracts to purchase such land. Unfortunately, almost all of this money was being poured down the drain.

The culmination of a five year effort was the passage of a tough new Land Sales Act by the Iowa Legislature in 1973. The provisions of Chapter 117A, 1979 Code of Iowa, Sales of Subdivided Land Outside Iowa, are among some of the toughest in the nation.

The enforcement of the Land Sales Act is the joint responsibility of the Iowa Real Estate Commission and the Consumer Protection Division. Any out-of-state land developer seeking to advertise, solicit or sell in Iowa must make a filing with the Iowa Real Estate Commission. This filing is investigated and examined by Consumer Protection Division attorneys and an opinion as to its completeness and compliance with the statutory requirements is issued to the Iowa Real Estate Commission. The Commission then votes on whether or not to accept the filing and such an acceptance can eventually lead to final registration by the Director of the Commission. Until these steps have occurred, no advertising, soliciting or selling in Iowa or to Iowa residents is permitted by the statute.

In the years since 1973, the office has seen the number of out-of-state subdivisions registered for sale in the state go from over 200 (pre-July 1, 1973) to about 15 today. Although it is, of course, impossible to accurately measure the amount of

money Iowans have saved because of this major consumer protection statute, it can be assumed that the savings could only be measured in tens of millions of dollars.

During 1979, the Consumer Protection Division received 71 complaints against out-of-state sellers of subdivided land. This was a far cry from the early 1970's when many hundreds of such complaints were received each year. Although no new land sales lawsuits were filed in 1979, two companies whose advertising and sales activities appear to be in violation of the statute are now under investigation and may be the subject of litigation during 1980.

During 1979, seven earlier-filed consumer fraud lawsuits against subdivided land sales were successfully completed. A number of these cases resulted in companies being enjoined from any further land sales in Iowa and also resulted in the recoveries of substantial amounts of money for Iowa victims.

In State of Iowa v. Recreation Leisure Land Corporation, the state sued a developer of retirement and recreation properties in Arizona. In addition to halting the complained-of advertising and sales activities, the Division collected restitution for 39 complaining victims totaling \$44,320.76.

A case in which the victims were less fortunate was State of Iowa v. Eddie J. Robbins. In this case, the defendant operated a number of different fraudulent land sales operations and defrauded quite a few Iowans. Although the defendant has been permanently enjoined from operating any such business in the State of Iowa, and although he eventually spent time in prison for his

activities, the Division was unable to recover the \$56,444 paid by the twenty claimants.

In State of Iowa v. Tanneycomo Projects, Inc., and Venice on the Lake, the state also obtained permanent injunctions enjoining the defendants from making any illegal advertisements, mailings, solicitations or sales in or to the State of Iowa prior to obtaining proper registration from the Iowa Real Estate Commission pursuant to the terms of the Land Sales Act.

In addition to stopping the unlawful practices all purchasers from the defendants were given the right to claim contract cancellations and restitution of all monies paid. Four of the twelve individuals sold by the defendants so claimed and restitution was paid by the defendants in the amount of \$10,353.84.

In State of Iowa v. Hidalgo Development, the state sued a New Mexico land developer. In addition to halting the continuation of the fraudulent and illegal land sales of the defendants' various developments, the office also had some partial success in recovering the victims' losses. Execution was made on several of the fairly solvent defendants and monies totaling \$9,003.45 were collected and distributed to the victims.

Although land sales problems and complaints have dwindled from the days when they were the top office complaint category, the Division intends to keep a careful eye on out-of-state subdivided land sales. Indications during 1979 showed a slight upswing in illegal advertising and sales activities which we expect to meet in 1980 by initiating suits against those companies who fail to comply with the provisions of the Iowa Consumer Fraud Act and the Iowa Subdivided Land Sales Act.

TRADE AND CORRESPONDENCE SCHOOLS

The provisions of Sections 714.17 through 714.22, Code of Iowa 1979, Unlawful Advertising and Selling Courses of Instruction, are enforced by the Superintendent of Public Instruction and the Consumer Protection Division. Schools selling Iowans trade and correspondence courses must make certain filings with the Department of Public Instruction and in some cases post performance bonds for the protection of their students. The Consumer Protection Division reviews all such registrations and advises the Department of Public Instruction as to whether or not they comply with the law and are acceptable for registration.

In 1979, the Division reviewed six trade school registrations and also reviewed the applications of two trade schools for Certificates of Exemption from the provisions of the statute.

In October of 1979, the Consumer Protection Division filed suit against a Florida-based airline and travel career training school. In State ex rel Miller vs. Associated Schools, Inc., the state alleges that the defendant was not complying with its advertising promises and that certain advertising promises were deceptive and misleading. The case alleges that the school had misled students concerning the availability of jobs after training at the school as well as setting forth misleading information concerning the type and quality of training that would be available to students. The case also attacks certain misrepresentations made as to the amount of assistance promised to assist students in locating jobs and in the method used by the school to deceptively compute promised refunds. This case is currently pending in Polk

County District Court wherein the state is seeking a permanent injunction against Associated Schools, Inc., and restitution for victimized Iowa students.

During 1979, the office received 89 written consumer complaints against trade schools and quite a few telephone inquiries. Currently the office is considering recommending to the Legislature that the bond that such schools must post for the protection of their students be increased and that certain other clarifying amendments be made in the trade school statute.

VOLUNTEER PROJECT

One of the major problems that has confronted the Consumer Protection Division in the last five years is the fact that the Division staff has remained basically the same while the number of new complaints received and the backlog of pending complaints increased greatly. Since 1975, the Division has been staffed with either 18 or 19 full-time employees. The current staff is 18, five attorneys, seven investigators, four secretaries, and two receptionists.

In the back of this report is a chart that shows the receipt of new complaints, complaints closed, complaints pending, lawsuits filed, lawsuits closed, lawsuits pending and monies saved and recovered for each year from the passage of the Iowa Consumer Fraud Act in 1965 through the end of the calendar year 1979. Clearly the increase in receipt of consumer complaints has continued to be a major factor. Obviously, the same number of people year after year, continually handling an

ever-increasing number of complaints only results in less attention being paid to each individual complaint, and in an ever-increasing backlog.

Recognizing this problem, the Division in 1979 implemented its "Volunteer Project" and engaged in an energetic undertaking in cooperation with a number of Iowa colleges and universities to obtain college students to work for the office on a nonpaid volunteer basis as "Complaint Handlers."

During 1979, fifteen different individuals worked with the Division as unpaid "Complaint Handlers" usually receiving a quarter's college credit for their work, although a few worked on a strictly volunteer basis without receiving any credit.

The Division's volunteer complaint handlers were assigned a variety of the simple run-of-the-mill "nonfraud" type of consumer complaint. They have proven to be exceptionally capable of assisting consumers with problems in such areas as mail order merchandise complaints, magazine sales and service complaints, complaints against book, record and tape clubs and other areas where experience has shown that the complaint usually can be resolved in the consumer's favor if someone takes enough time to write the proper letters, make the proper phone calls, and run down someone in the company with authority to negotiate settlements.

With the assistance of these volunteer complaint handlers, the office in 1979 was able to complete action on 10,967 complaints up from the 8,521 complaints closed in 1978. More

important, although the office received a record number of new complaints (9,303), the office was able to reduce its backlog of pending complaints from 5,575 pending on January 1, 1979, down to only 3,911 pending at the end of the year. The benefits of this reduction will be felt in 1980 when consumers will get much quicker turn around time on their complaints because of the decrease in the backlog.

One of the Division's full-time investigators has been designated as the Division's "Volunteer Director." She has begun taking classes in Volunteer Management at the Ankeny campus of the Des Moines Area Community College and will be working toward obtaining a Certificate in Volunteer Management.

One of the Division's goals is to eventually have an on-going volunteer complaint-handler program under the direction of the "Volunteer Director" which will result in volunteers being able to handle about as many nonfraud type consumer complaints as would be handled by the addition of three new investigators to the staff. Of course, this program also has the added, very valuable incentive that it does not take up any of the severely limited staff positions, nor does it result in any expense to the taxpayer.

A side effect of the 1979 Volunteer Project was to also relieve the investigators of having to spend almost all of their time handling and mediating complaints and the investigators during the year had more time to work on the investigation of fraud cases and to assist the attorneys in preparing for, handling and completing lawsuits.

During 1980, the office will continue to work on its Volunteer Complaint-Handler Project and intends to expand its search for competent, dedicated individuals willing to work on assisting consumers in the mediation of their complaints.

CONCLUSION

Nineteen seventy-nine was a very active year for the Consumer Protection Division. This year, 1980, also promises to be very busy.

The Division intends to continue to put a great deal of its efforts into four of the major areas that consumers complain about:

1. Automobile problems
2. Credit Code problems
3. Business opportunity schemes
4. Energy problems

One of the reasons for the office's success in the last year in being able to successfully handle many more complaints than in past years has been a concept of project orientation and to some degree specialization. Individuals within the Division have been trained to gather expertise in specific areas so that they can more effectively deal with consumer problems. Also the project approach has proven effective in such areas as cracking down on business opportunity schemes and recruiting volunteer complaint-handlers to assist the Division in keeping down its complaint backlog.

Priorities during 1980 will be the implementation of rules and regulations pursuant to the provisions of the Iowa Consumer Credit Code so that the office may more fairly and effectively enforce its provisions. Other priorities will be working toward a goal of obtaining more effective mediation of automobile complaints for consumers throughout the state. The office hopes to step up its Business Opportunity Project by seeking the assistance of the publishers of Iowa's major newspapers in trying to weed out many phoney ads prior to Iowans being victimized by them. In the energy field, the Division hopes to be able to increase its investigation of energy-saving devices and to step up actions against the small minority of insulation contractors engaging in deceptive sales and installation activities.


Much of the content of this report deals with complaints, investigation, litigation, projects and other technical points. One thing should not be forgotten, underlying all of these facts and figures are real people, the people whose lives are affected by the purchases they make and how their complaints are handled and responded to by this office and by the businesses they deal with.


The Iowa Consumer Fraud Act is generally a very broad and encompassing act covering almost every advertising, solicitation and sales transaction that Iowans may become involved in. Very simply the statute mandates that "It is unlawful to lie or fail to tell the complete truth when advertising or selling

goods or services." The Iowa Consumer Fraud Act touches almost every person in the state and substantially affects not only the rights of purchasers but the rights of sellers.

The Consumer Protection Division is confronted each day with new and intriguing complaints, schemes, questions of law and other matters that must be addressed and problems that must be solved. All in all, the enforcement of the Iowa Consumer Fraud Act and all of the other Iowa consumer protection statutes enforced by the Attorney General is a rewarding undertaking.

Dated this 1st day of February, 1980.


THOMAS J. MILLER
Attorney General of Iowa


DOUGLAS R. CARLSON
Assistant Attorney General in Charge
Consumer Protection Division

CONSUMER PROTECTION DIVISION PUBLICATIONS:

1. 1979 Annual Report & Statistics
Consumer Protection Division
2. 1979 Consumer Credit Code Report
3. How to Complaint Effectively (Pamphlet)
4. Insulating Your Home (Pamphlet)

Available From:

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Hoover Building
Des Moines, IA 50319
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END